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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,669	03/18/2004	Mehul Patel	1400-70 (1704)	5921
7590 05/07/2007 George Likourezos Carter, DeLuca, Farrell & Schmidt, LLP Suite 225 445 Broad Hollow Road Melville, NY 11747			EXAMINER NGUYEN, KIMBERLY D	
			ART UNIT 2876	PAPER NUMBER
			MAIL DATE 05/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/803,669

Applicant(s)

PATEL ET AL.

Examiner

Kimberly D. Nguyen

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 is/are allowed.
- 6) ☒ Claim(s) 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Acknowledgment is made of Amendment filed February 8, 2007.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23-31, 33-34, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushima et al. (US 4,818,856; "Matsushima").

Re claims 23, 26-27, 34, and 36: Matsushima teaches a method of scanning an optical code comprising the steps of:

sensing ambient light conditions and generating at least one first electrical signal corresponding to the sensing of the ambient light conditions ("...an image sensor for converting said ambient light image of said bar code into said electric signal..." col. 8, lines 22+; Abstract; col. 3, lines 36-47);

sensing light reflected from the target (bar code 2) being imaged and generating a plurality of second electrical signals (a peak value signal, continuous signal, binary signal) corresponding the sensing of the reflected light (col. 3, lines 23-35; col. 3, lines 6-60);

processing at least a portion of the at least one first electrical signal ("signal representing ambient light detected by detector 9 is amplified..."col. 3, lines 36-42); and

controlling at least one of exposure during the sensing of the reflected light, gain processing of at least a portion of the plurality of second electrical signals (i.e., the image sensor 8 is dynamically/continuously controlled/regulated so that the scanning operation is properly performed even if the intensity of the ambient light changes, so that the exposure time is changed in accordance with the intensity of the ambient light detected by light detector 9), and illumination of the target in accordance with the processing (col. 3, lines 14-35; col. 4, lines 1-6; col. 3, lines 6-60).

Re claim 24: Matsushima further teaches the step of generating an image corresponding to the plurality of second electric signals; and decoding the image (col. 3, lines 23-60).

Re claims 25: Matsushima teaches wherein the sensing ambient light includes sampling the ambient light, and wherein a decodable image can not be generated from the at least one first electrical signal (col. 3, lines 36-47; col. 3, lines 17-22).

Re claim 28: Matsushima further teaches the step of decoding the plurality of second electronic signals (step 104 of fig. 4; col. 3, lines 28-35; col. 3, lines 55-60).

Re claims 29-31: Matsushima teaches wherein the controlling the gain processing step includes controlling a gain setting (col. 3, lines 6-23; col. 3, line 61 through col. 4, line 15).

Re claim 33: Matsushima teaches the step of passing light through one aperture (3a; col. 2, lines 58-63) for sensing the ambient light and the light reflected from the target being imaged.

***Allowable Subject Matter***

4. Claims 1-22 are allowed.
5. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or fairly suggest, among with other limitations, an optical scanner system for imaging a target having an ambient light sensor having at least one photo sensor for sensing ambient light conditions and generating at least one first electrical signal corresponding to the sensing of the ambient light conditions; and a processing circuitry for processing at least a portion of the at least one first electrical signal and controlling at least one of the exposure circuitry, the gain circuitry and the illumination assembly in accordance with the processing of the at least a portion of the at least one first electrical signal as set forth in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

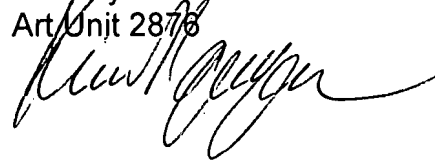
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on 8 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kimberly D Nguyen  
Primary Examiner  
Art Unit 2876



KDN